



CITY OF FORT WAYNE

THOMAS C. HENRY, MAYOR

Before the Federal Communications Commission Washington, D.C. 20554

In the Matter of)
)
Implementation of Section 621(a)(1) of the Cable) MB Docket No. 05-311
Communications Policy Act of 1984 as Amended)
by the Cable Television Consumer Protection and)
Competition Act of 1992)

COMMENTS OF THE CITY OF FORT WAYNE

The City of Fort Wayne (CFW) appreciates the opportunity to file comments on the Second Further Notice and Proposed Rulemaking (“FNPRM”) in the above-referenced docket. The City of Fort Wayne is the second largest city in Indiana. CFW operates a government access channel cable cast on cable providers Comcast and Frontier, with a potential combined viewership of 80,000 subscribers. CFW strongly opposes the tentative conclusion in the FNPRM that we should treat cable-related, “in-kind” contributions required by a franchising agreement as “franchise fees.” The broad definition of “in-kind” contributions could include items such as those that allow public, educational, and governmental (PEG) programming to be viewed on the cable system and providing cable service to schools, government and safety facilities and libraries. CFW strongly opposes the allowance of using fair market value to determine the amount to be considered a franchise fee as to do so will lead to arbitrary deductions and is in opposition of the long-standing agreement in place since 1981 from the cable operator that such obligations are not franchise fees.

Our public channel is used for locally produced programming that provides a direct link to the workings of local government, including coverage of local council and commission meetings and community-focused programming. This local content, which is in the community interest, would otherwise not be available to our community.

The City of Fort Wayne believes PEG programming is for the direct benefit of the community, rather than the FNPRM’s implication that PEG programming is for the benefit of the local franchising authority (LFA) or a third-party PEG provider.

PEG programming fits squarely into the category of benefits that do not accrue to the LFA or its designated access provider, yet the Commission concludes without any discussion of the public benefits of local programming that non-capital PEG-related provisions benefit the LFA or its designee rather than the public at large.

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Based on these arguments, CFW opposes the FNPRM and urges the Commission to reconsider its tentative conclusions, which would harm the ability of local franchise authorities to continue to provide services that are in the public interest of their communities.

Respectfully submitted,

James Haley
Chief Information Office
City of Fort Wayne